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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/285,632	04/02/1999	NATHANIEL T. BECKER	GC530-2	3949

7590 12/05/2001

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EXAMINER

TRAN, SUSAN T

ART UNIT	PAPER NUMBER
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1615

DATE MAILED: 12/05/2001

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/285,632

Applicant(s)

Becker et al.

Examiner

Susan Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Sep 26, 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 22-58 is/are pending in the application.
- 4a) Of the above, claim(s) 28-40, 43-45, and 49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-27, 41, 42, 46-48, and 50-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 18
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

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### **DETAILED ACTION**

Receipt is acknowledged of Applicant's Declaration and Surcharge filed 06/07/99, Information Disclosure Statement filed 08/13/99, Power of Attorney filed 08/13/99 and 09/26/01, Request for Extension of Time filed 11/06/00 and 0/02/01, Election filed 04/02/01, Amendment A filed 11/06/00, Amendment B filed 04/02/01, Amendment C filed 08/03/01, Notice of Appeal filed 09/07/01, Request for Continued Prosecution Application filed 09/26/01, and Information Disclosure Statement filed 09/26/01.

### ***Continued Prosecution Application***

This application is a CPA of application Serial No. 09/285,632 filed 04/02/99. All claims are drawn to the same invention claimed in the parent application prior to the filing of this Continued Prosecution Application under 37 CFR 1.53(d) and could have been finally rejected on the grounds and art of record in the next Office action. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing under 37 CFR 1.53(d). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

All rejections made in paper number 12 are repeated and are incorporated herein by reference.

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Election/Restriction***

applicant's election without traverse of Group I, claims 22-27, 41, 42, 46-48, and 50-52 in Paper No. 11 is acknowledged.

***Claim Rejections - 35 U.S.C. § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 22-27, 41, 46-48, and 50-58 are rejected under 35 U.S.C. 102(b) as being anticipated by Oshlack et al. US 5,639,776.

Oshlack teaches a pharmaceutical formulation in the form of tablets, beads, seeds, or granules that can be coated with a coating composition comprising water-insoluble hydrophobic polymer (column 5, lines 56-67; and column 7, lines 35 through column 8, lines 1-19), water-

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soluble hydrophilic polymers (column 10, lines 45-06), modified starch (column 11, lines 12-41), and plasticizer (column 12, lines 29 through column 14, lines 1-40).

***Claim Rejections - 35 U.S.C. § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22-27, 41, 42, 46-48, and 50-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oshlack et al.

Oshlack is relied upon for the reason stated above. In the event that applicants can overcome the above 102(b) rejection, the examiner relies on the 103(a) rejection. Regarding to claim 42, Oshlack is silent as to the disclosing of enzyme. However, Oshlack teaches a cleansing agent including deodorant, surfactant, germicide, and sanitizer. Hence, it would have been prima facie obvious for one of the ordinary skill in this art to, by routine experimentation determine a suitable cleansing agent including enzyme. The reason for this modification is to obtain a stable coated composition that is useful in the pharmaceutical and cosmetic arts.

***Response to Arguments***

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Applicant's arguments filed 11/06/00 and 08/03/01 have been fully considered but they are not persuasive.

Applicant argues that although Oshlack teaches various components of the claimed coating such as plasticizing, modified starch, and polymer but as a whole does not disclose the claimed invention because Oshlack's coating composition includes aqueous dispersion of a hydrophobic acrylic polymer. Contrary to the applicant's argument, applicant's generic claim language does not exclude the use of other components such as hydrophobic acrylic polymer.

Applicant argues that Oshlack does not teach equal parts of modified starch and secondary polymer in the coating. However, no criticality is seen in the particular ratio of modified starch and secondary polymer, since Oshlack teaches a coating comprising polymers, plasticizer, and modified starch that is water soluble and easily dissolve when expose to fluids in the environment of use (see columns 10-12). Applicant has not provide any unexpected results in the use of the claimed ratio.

Applicant argues that Oshlack does not teach a coating comprises a modified starch, a modified cellulose and a plasticizer. Contrary to the applicant's argument, Oshlack does teach a coating comprising plasticizing agent, modified starch, and modified cellulose (see columns 9-12).

Applicant argues that Oshlack teaches the use of both starch and modified starch. However, applicant's generic claims do not exclude the use of other components, e.g., starch.

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***Pertinent Arts***

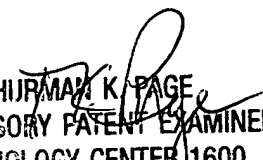
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jeffries, Brindamour, John et al., Gago et al., and Arnold et al. are cited as being of interest for the teaching of coating composition.

***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Tran whose telephone number is (703) 306-5816. The examiner can normally be reached on Monday through Thursday from 6:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page, can be reached on (703) 308-2927. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3592.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

  
THURMAN K. PAGE  
SUPERVISORY PATENT EXAMINER  
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